

### **REMARKS**

Claims 1-7 and 9-14 are now pending in the application. Minor amendments have been made to the specification and claims to simply overcome the objections to the specification and rejections of the claims under 35 U.S.C. § 112. The amendments to the claims contained herein are of equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### **TERMINAL DISCLAIMER**

The Examiner provisionally rejected claims 1-7, 10 and 12 -14 under the judicially created doctrine of obviousness-type double patenting. In response, without conceding the correctness of her assertion, but solely to advance the prosecution of the present application, Applicants are submitting herewith a Terminal Disclaimer. Withdrawal of the provisional double patenting rejection is respectfully requested.

### **DRAWINGS**

The drawings stand objected to for certain informalities. Applicants have attached revised drawings for the Examiner's approval. In the "Replacement Sheet(s)," Figures 4, 5, 13, 14, and 16 have been amended to schematically show the motor and the airflow generator; Figures 1 and 2 have been amended to show the first and second exhaust apertures; and Figure 17 has been amended to show the biasing spring in cooperation with the resiliently biased flap.

In regards to the Examiner's objection to the drawings under 37 CFR § 1.83(a) because the drawings fail to show a plastic cap used to seal an aperture, Applicants respectfully submit that one of ordinary skill in the art would understand the placement and usage of a plastic cap to seal up an

aperture. Therefore, such a structural detail would not be essential for a proper understanding of the disclosed invention.

With respect to the Examiner's objection to the drawings under 37 CFR § 1.84(p)(5) because they include reference character "T" not mentioned in the description, Applicants refers the Examiner to Figure 16 which includes reference character "T."

In view of the preceding amendments and remarks, Applicants respectfully request the withdrawal of the Examiner's objections to the drawings.

#### **SPECIFICATION**

The specification stands objected to for certain informalities. Applicants have amended the specification to overcome the Examiner's objections. Therefore, reconsideration and withdrawal of these objections are respectfully requested.

#### **REJECTION UNDER 35 U.S.C. § 112**

Claims 2, 5 and 7-14 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. This rejection is respectfully traversed.

The Examiner rejected claim 2 because neither the specification nor the drawings appear to provide support for the following element: "...third direction of the nozzle airflow and the first direction of the debris intersect at an acute angle." Applicants respectfully refer the Examiner to paragraph [0016] and Figure 16 for support for the identified element.

The Examiner also rejected claim 5 because neither the specification nor the drawings appear to provide support for an exhaust aperture as set forth in the claim. Applicants have amended [0009] to provide support for the exhaust aperture as set forth in claim 5.

The Examiner rejected claim 8 and 9 because the specification fails to describe in detail the arrangement of a first and second exhaust aperture. Applicants have amended paragraph [0009] of the specification and has amended Figures 1 and 2 to describe in detail the arrangement of a first and second exhaust aperture.

Claims 5, 7-14 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

The Examiner rejected claim 5 because it is not clear if “the aperture” refers to the “exhaust aperture” or the “expulsion aperture.” Applicants have amended claim 5 to indicate that “the aperture” refers to the “exhaust aperture.”

The Examiner also rejected claim 5 and claims 7-10 and 12-13 because of a lack of antecedent basis for the term “aperture” in claim 5 and the term “the flap” in claims 7-10 and 12-13. Applicants have amended claim 5 to correct the lack of antecedent basis. In regards to claims 7-10 and 12-13, Applicants refer the Examiner to claim 7, line 1 for antecedent basis for the term “flap.”

In view of the preceding amendments and remarks, Applicants respectfully request the withdrawal of the Examiner’s objections to the claims under 35 U.S.C. § 112.

#### **REJECTION UNDER 35 U.S.C. § 102**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Zaiser (U.S. Pat. No. 4,601,104). This rejection is respectfully traversed.

Applicants note that claim 1 includes the limitation “a conduit defined within the body for directing the airflow, the conduit connected to the recess by the expulsion aperture.” Applicants submit that the handheld planer of Zaiser ‘104 fails to teach or suggest a conduit

defined within the body for directing the airflow, the conduit connected to the recess by the expulsion aperture. Zaiser '104 discloses a body 1 which has a window or port 10 on a side wall which opens into a hood or cover 12 that is attached to the body 1. The cover 12 encloses a chamber 11 which extends directly below the chip ejection channel 5 and is connected thereto through an air stream passage 13 which leads at an angle upwards into the chip ejection channel 5. The chamber 11 directs the air generated by the blower 7 that passes through the window of port 10 to the chip ejection channel 5 via air stream passage 13. As disclosed in Zaiser '104, the chamber 11 is located outside of the body 1 in cover 12, wherein cover 12 is adjacent to the side wall 9 of the body 1. Therefore, the chamber 11 cannot be defined within the body as required by claim 1 of the present invention. Therefore reconsideration and withdrawal of this rejection are respectfully requested.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (410) 716-2886.

Respectfully submitted,

Dated: 8/17/05

By:   
Mehul R. Jani, Reg. No. 51,380

The Black and Decker Corporation  
701 E. Joppa Road, TW 199  
Towson, MD 21286  
(410) 716-2886

[MRJ/edp]

### **AMENDMENTS TO THE DRAWINGS**

The attached "Replacement Sheet(s)" of drawings includes changes to Figures 1-5, 13, 14, 16, and 17. The attached "Replacement Sheets," which includes Figures 1-18, replaces the original sheets including Figures 1-18.

Attachment: Replacement Sheet(s)